

18th February 1961] [Srimathi Lourdhammal Simon]

deal of his precious time which could be concentrated on more important items of work which require his attention. He therefore considers that all pay orders and cheques against the Municipal fund can be signed by the Deputy Commissioner. The Commissioner has therefore requested the Government to amend rule 12 (1) of Schedule V to the Madras City Municipal Act, 1919, suitably.

Under section 16 of the Madras City Municipal Act, the Commissioner may delegate to any Officer any of his ordinary powers, duties or functions except those excepted therein. Rule 12 of Schedule V to the Madras City Municipal Act is not one of the exceptions specified in the said section. However, rules 13 and 14 of the said Schedule are among the exceptions enumerated in section 16 of the Madras City Municipal Act, 1919. It is therefore proposed to amend only rule 12 (1) of the said schedule which will enable the Commissioner, Corporation of Madras, to delegate the power of signing the cheques to any officer or servant of the Corporation specially authorized by the Commissioner in this behalf.

3-30
p.m.

This will not entail legislation; but under section 347 (5) of the Madras City Municipal Act, 1919, a draft of the rule proposed to alter Schedule V should be laid before both chambers of the State Legislature and their approval obtained. I ask for the approval of the House accordingly.

MR. CHAIRMAN : The question is—

“ That the following draft of a rule proposed to be made by the Governor of Madras under sub-section (3) of section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), amending Schedule V to that Act be approved—

Draft Rule

In sub-rule (1) of rule 12 of the said Schedule, for the words ‘ or in his absence by the Revenue Officer ’ the words ‘ or any Officer or servant of the Corporation specially authorized by the Commissioner in this behalf ’ shall be substituted ”.

The motion was put and carried.

V.—GOVERNMENT BILL.

THE MADRAS CHIT FUNDS BILL, 1961 (L.A. BILL NO. 5 OF 1960).

* THE HON. SRI R. VENKATARAMAN : Sir, I move—

‘ That the Madras Chit Funds Bill, 1961* (L.A. Bill No. 5 of 1960), as passed by the Legislative Assembly, be taken into consideration.’

Sir, this Bill was introduced in the Legislative Assembly in April 1960, and with the concurrence of this House, it was referred to a Joint Select Committee. After recording evidence, the Committee subjected the clauses of the Bill to a thorough scrutiny. As a result, the Committee has made some changes to

[Sri R. Venkataraman] [18th February 1961]

the clauses as originally proposed. I shall mention the more important of the changes now. Originally clause 3 provided that a person who wanted to start or conduct a chit had to obtain the sanction of the officer empowered by the Government in that behalf and also register the chit agreement in accordance with the provisions of the Act. The Committee has held the view that the previous sanction of the officer is not necessary, and that it is sufficient if the foreman, on the model of the co-operative societies, registers the by-laws. Regular business can be transacted only after filing the chit agreement and obtaining the certificate of commencement.

Another change is in regard to the original clause 11 relating to the security to be furnished by the foreman of a chit. The clause contemplated provision of security by way of property for the realisation of twice the chit amount or a deposit in any approved bank of an amount of cash not less than the chit amount. The Committee felt that the amount of security to be furnished might be reduced, and, under this clause, we have said that it is enough if the cash security is furnished to the extent of fifty per cent and property security equal to the chit amount.

It may be noted that previously there was no provision for exempting, in deserving cases, any chit or class of chits or any person or class of persons from the operation of this Bill. Necessary provision has now been made in this behalf. The Legislative Assembly has also made a few changes in this Bill. According to the provision of the Bill, as amended by the Joint Select Committee, no Court inferior to that of a salaried Presidency Magistrate or a salaried Magistrate of the second class shall try any offence under the Act. The Legislative Assembly has amended the provision to the effect that no Court inferior to that of a salaried Presidency Magistrate or a salaried Magistrate of the first class shall try any offence under the Act.

Sir, I request that the Bill be taken into consideration.

MR. CHAIRMAN : Motion moved—

‘ That the Madras Chit Funds Bill, 1961 (L.A. Bill No. 5 of 1960), as passed by the Legislative Assembly, be taken into consideration.’

SRI M. SESHACHARIAR : Mr. Chairman, Sir, in supporting the Bill I want to say a few words. There were, of course, complaints by very many that in the matter of these chit fund transactions the relationship between the chit holder and the subscribers had not been definitely defined and that there were not sufficient safeguards to protect the subscribers who were ignorant and illiterate. I believe it is for that purpose a provision has been made in regard to the whole thing. The provision in regard to the commencement of the chit, the registration of the by-laws, and the certificate to be obtained before starting chits, are really salutary provisions. There is the provision for making deposit as a security for repayment of the chit fund amount. While all

18th February 1961] [Sri M. Seshachariar]

these are true, I wish to say that there are various provisions which outweigh all the advantages that are given to the subscribers. In very many cases, the protection that is offered is to the foreman and not to the subscriber. I can give a number of instances of this kind. One such is this. In regard to the receipts that are to be given by the foreman, though it is insisted upon that the foreman should give receipts, it may so happen that he does not issue any receipt at all. I am here referring to clause 61. Though the foreman is compelled to issue receipts, in the absence of receipts, it actually throws the burden of proof on the subscriber, and oral evidence is prohibited. In other matters too oral evidence is prohibited. I would like to bring to the notice of the Leader of the House clause 23. It also says that the promissory note that is executed as security for the payment of the subsequent instalments should state that it is for the purpose of paying future instalments. If there is no such stipulation, it would show that a decree could be passed for the entire amount. This places the subscriber at a very great disadvantage. As matters stand at present, he can prove, under the provisions of the Evidence Act, that the character of the note is different. It is for him to prove by oral evidence that the pro-note that is executed is for the purpose of paying the instalments that are due. On the other hand, I should think that clause 25 would impinge on the salutary provisions of section 92 of the Evidence Act. Under this section a person can prove by oral evidence that a promissory note has been executed not in regard to the stipulations or the conditions that are contained therein but only as security for paying future instalments. But under this Bill, he is practically prohibited from doing so. Clauses 61 and 25 go against the section in the Evidence Act, and it may not be proper to leave it like that. I think this Bill does not give any kind of protection to the illiterate subscribers.

Then, another instance is this. If a prize winner or a non-prize winner does not pay the instalments, the question arises whether he is to be removed. Even before removal, there is the execution of the promissory note. After removal, notice is given and not prior to removal. Normally one would expect that a notice would be given to the defaulter before his name is removed and another substituted. Here is a case where a defaulter is removed and then notice is given. As regards the promissory note, it states that there should be a stipulation as to the remaining instalments and that otherwise a decree can be passed for the entire amount. But what about mortgages that might have been executed for the purpose of future repayment? There is no provision to cover these cases. There should also be a provision that the stake-holder or the foreman should endorse payments that are made on the promissory note itself. The provision at present only says that a receipt must be given. It will not do.

3-10
p.m.

There is one other point which I wish to refer to. There is provision for penalty made in clauses 58 and 59. I can understand composition in other matters and not in a case contemplated

[Sri M. Seshachariar] [18th February 1961]

in clause 58 (3). If there is a false declaration by the stake-holder or the foreman in regard to certain matters, it is stated, it could be compounded. I do not know whether it is proper to allow a thing of that kind here where a false statement is made. Then, what is the composition that could be effected? What is the money compensation that can be collected from him? Therefore, it would be wholly wrong to allow compounding in a case where there is false declaration made by the stake-holder or the foreman.

I have already stated that this Bill is very much in favour of the stake-holder rather than in favour of the subscriber. The subscriber is entitled to look into the accounts of the chit and ascertain the real position of the chit fund or his own dealings. Here a fee of five rupees can be collected for inspection. What I would like to submit is, at least in the rules provision should be made to meet the points I have made, especially in regard to the Evidence Act. I should think the burden should not be thrown absolutely on the subscriber in a matter where the stake-holder is at a great advantage. He can always dominate because he maintains accounts. So, provision should be made in the rules at least to see that the subscriber is not defrauded in any manner.

* SRI K. V. RAMASWAMY : கனம் அவைத் தலைவர் அவர்களே, இப்போது இந்த சிட் பண்டு விஷயத்தைப்பற்றி நான் இரண்டொரு வார்த்தைகள் தெரிவித்துக்கொள்ளக் கடமைப்பட்டிருக்கிறேன். இந்த சிட் பண்டு என்பதை கிராமங்களிலே ஏலச் சீட்டு என்று சொல்வார்கள். அது போல பல ரூபங்களில் கிராமங்களிலே இது வழங்கிவருகிறது. அதனை நல்ல முறையில் நடத்துவதற்கு சர்க்கார் இப்பொழுது நடவடிக்கை எடுத்து வருகிறார்கள். ஜனங்களுக்கு அனுகூலமான முறையில், அவர்களுக்குப் பயன்படும் நோக்கத்தோடு, இதனை நடத்திக் கொண்டு வருவது மிக முக்கியமானதாகும். கிராமங்களில் சில விடுகளிலே கணவனுக்குத் தெரியாமல் கூட சில சீட்டுகளை நடத்துகிறார்கள் பெண்கள். அதற்கு எந்தவிதமான ஒரு ஆதரவும் கிடையாது. அதனால் அப்படி சீட்டுப் பிடித்து நடத்திக்கொண்டு வரக்கூடியவர்கள் சில சமயங்களில் மாயமாக மறைந்துவிடுகிறார்கள். அப்பொழுது அந்த சிறிய தொகைகள் பாழாகிவிடுகின்றன. அவர்கள் எந்தக் காரணத்திற்காக நடத்தினார்களோ அது நடைபெறாமல் யாருக்கும் தெரியாமலே கவிழ்ந்துவிடுகிறது. போடுபவர்களுடைய பணம் பாழாகிப்போகிறது. அந்த முறையிலே ஒவ்வொரு இடத்திலும் பார்க்கும்போது பல வகையிலே நஷ்டங்கள்தான் ஏற்படுகின்றன. எங்கோ ஒருவர் இருவர் நல்லவர்களாக நடத்திக்கொண்டு வருகிறார்கள். அதனைக் கண்காணித்து நல்ல முறையில் அதை அமைக்க முடியுமென்பதுதான் இதிலிருந்து தெரியவருகிறது. இப்பொழுது கிராமங்களிலே கொஞ்சம் கொஞ்சமாக சிறு சேமிப்புத் திட்டத்தைக் கையாண்டுவருகிறார்கள். அதிலும் இன்னும் பல கிராமங்களுக்கு அது தெரியாமல் இருந்து கொண்டிருக்கிறது. சிறு சேமிப்பு முறை மிகவும் நல்லமுறை.

18th February 1961] [Sri K. V. Ramaswamy]

இந்த மாதிரி சீட்டு மூலமாகவும் சில கிராமங்களில் நடத்துகிறார்கள். நூற்றுக்கு இரண்டு மூன்று பேர்கள் நல்ல முறையில் நடத்தி அதன் மூலம் ஊதியம் அடைந்து, பணம் போடுகிறவர்களுக்கும் நல்ல முறையில் பயன்படும்படி நடத்திக்கொண்டு வருகிறார்கள். அப்படி நல்ல முறையில் நடத்தினால் நாட்டினுடைய நலனுக்கும் மக்களுடைய சேமிப்புக்கும் மிக ஒத்தாசையாக இருக்கும். ஆகவே அதை நல்ல முறையில் பயன்படுத்தி மக்களுக்கு அனுகூலமான முறையில் செய்யவேண்டியது சர்க்காருடைய கடமை. அதனால் இப்பொழுது சர்க்கார் மிகவும் கவனம் செலுத்தி ஏழை மக்களுக்கு நல்ல வாய்ப்பு தரும் முறையில் இதனை நடத்துவது உசிதம் என்று கருதி அதற்காவன செய்கிறார்கள். அதனை மனப்பூர்வமாக ஆதரிக்கிறேன்.

SRI K. BALASUBRAMANYA AYYAR: Sir, in the matter of approach to this Bill, I want to say a few words. Chit fund transactions throughout the country are based on mutual trust and confidence. A number of people join together and give subscriptions and the stake-holder who commands some reputation conducts the chit. That is how chits are conducted throughout the country. Agriculturists also conduct chits. It is very common in Tirunelveli district and in Malabar, so far as I know. Therefore, we should not make provisions of an elaborate nature so that no chit funds would be conducted hereafter. That is my general impression. Once the Bill is passed, immediately by-laws have to be framed. For that purpose, they must go to a lawyer or draftsman. Otherwise, we will get into difficulties. I won't say lawyers; some adviser should be there to draft the by-laws. We must keep accounts, record proceedings, write minutes and do so many other things. I am afraid, the ordinary transactions in villages will soon disappear. (Sri Mohamed Raza Khan: They will be there in spite of this Act.) Let us take the Companies Act. There I find that there are 796 offences committed. I counted them and everything is an offence there. Still people are doing it. 'I am prepared to sacrifice my life for the sake of money'. That is the idea which we have put before our countrymen now. Therefore it is, I am saying that the whole procedure should be simplified. That is my general view. I do not want to go into details of the various provisions of the Bill now.

3-50
p.m.

Think of the large staff that one has to employ to run this chit. You have a Director of Chits, a Registrar of Chits, then a number of auditors, a chief auditor and so on. These are contemplated in the Bill. We are going to have a huge establishment. Probably the Government may also ask the Registrar of Companies to look after this. The Registrar is having so much work even in regard to the companies that he is not able to attend to all of them. If the Government add these Chit Funds also to him, he will have little time left to attend to his other duties. Then again, I have forgotten to refer to the Inspectors. Balance

[Sri K. Balasubramanya Ayyar] [18th February 1961]

sheets have to be framed for these funds. What will a chit fund holder be able to do, I wonder. He must have accountants to prepare the balance sheets to give to the auditors for audit. Then the auditors have to be paid to audit the balance sheet. No auditor will audit the balance sheet without the usual fees. Do the Government mean to think that the Chit-holder can pay for all these things?

Government must have some imagination in trying to regulate these chit funds. The chits are small transactions. Only rarely they are big transactions. They are transactions involving Rs. 20 or Rs. 30 or Rs. 40 and so on and not more than that. Ordinarily it is the case. Now the stake-holder has become the 'foreman'. They have put the definite article 'the' in defining the foreman. It might be a printing mistake. I will refer to it on another occasion. The stake-holder is called the foreman under the Bill. Now under the Bill he is being asked to bear so many charges resulting from so many accounts being kept. He will find himself in difficulties. If the provisions of this Bill are enforced, what I am afraid is, these small chit transactions will no longer take place. They will have to close down. Only big chit transactions can afford to remain if this varied and complicated accounting procedure is to be enforced. Everywhere in the Bill I find it stated that everything must be put down in writing. Then for certain offences, for breach of some of the provisions in the Bill, the penalty is imprisonment. In the case of the Companies Act, it might be desirable. But I would like to ask whether it is necessary in the case of small chit transactions unless they are very grave offences. For dealing with grave offences, we have got the Penal Code and the Criminal Procedure Code. They will take care of those people who commit such offences. These provisions imposing a penalty of imprisonment in this Bill are not therefore necessary. (Interruption.) If they are false, he could be prosecuted. But if we compound, I do not know whether he will escape. He might be acquitted in some cases. The Penal Code is there so far as these offences are there. And again if the Government go on multiplying all these proceedings, they will be hitting so many other sections of the Code. I have not gone into the question in detail and therefore I do not know how many of the other sections in the Code will be hit. Therefore it is we have asked for time to give notice of amendments to the various clauses of the Bill and to discuss them.

SRI T. P. SRINIVASAVARADAN : What protection would the hon. Member suggest to safeguard the interests of the subscribers from unscrupulous people?

SRI K. BALASUBRAMANYA AYYAR : There are unscrupulous men all around us. And there is the Penal Code to deal with them. If we go on saying that people are unscrupulous and take away money from the banks, nothing will function. To deal with such things, they have the moratorium and so on. To say : 'You have unscrupulous men. Therefore you should have no

18th February 1961] [Sri K. Balasubramanya Ayyar]

business and nothing should be done ' will not help anybody. There are sharpers all around us, and does the hon. Member think we can protect ourselves completely against them? Then most probably we must have no transactions at all. It would be better to stop all such transactions. A general fear like that is not good.

These chit fund transactions are taking place throughout the country not on account of any special Five-Year Plans that the Government have drawn up. These transactions are going on in the country on account of the fact that the people would like to have a large sum of money at a time of need by paying small subscriptions periodically. For instance a man may be paying Rs. 10 a month or so and gets a prize amount of Rs. 1,000 to meet a domestic want or other transaction. It is good for him. It is like a savings deposit. It is only for that purpose that the chit transactions have come into existence. They came into existence because people felt that they had no large cash with them and therefore they should provide for a contingency. And therefore time is of the essence in all these transactions. And therefore it is that the whole of the amount is paid when the chit is prized by a subscriber. There is provision for that in the Bill, and so far as it goes it is all right.

But Sir, my plea is whether the Government should prescribe such an elaborate procedure and all that requiring the foreman to put down everything in writing, to draw up the balance sheet and so on and so forth. It will be all right in the case of banks. But in respect of these small chit transactions, it will create difficulties because they cannot afford to have a large establishment like the banks. Then, so far as the chit transactions are concerned, they are conducted by private individuals, and they cannot afford to have a large establishment. If the provisions of the Bill are enforced, it will have a deleterious effect on the transactions themselves and the progress of the chit funds. If the Government do not want these chit funds, they could as well close them down completely. If it is felt that all these people are dangerous people and they walk away with the money of the subscribers, then it is better that the Government stop these transactions altogether. It is no good having a Bill which will have the effect of smothering or strangling these chit transactions. That is the general idea and feeling I had when I read through the various provisions contained in the Bill. I do not for a moment say that there should be no protection at all for the subscribers. I do not say that the stakeholder should not be asked to give sufficient security. I am not saying these at all. I am only saying it is not necessary to have this elaborate procedure and the huge staff that is necessary to comply with the various provisions contained in the Bill. It will be very difficult to fully implement all these things. I shall be thankful if the Government can simplify the procedure to some extent. Let us have a little more nebulous procedure which may not entail the stakeholder employing a huge establishment of accountants, auditors

[Sri K. Balasubramanya Ayyar] [18th February 1961]

and so on. Then there is a procedure which is also cumbersome. First the foreman has got to register his by-laws. Then for the commencement of the chit he has to obtain a certificate. If he fails to do any of these there is provision to penalise him. I think one final registration will do. As it is, the Government put a spoke in the wheel and this will create a lot of difficulties to the foreman who conducts the chits. If all this elaborate procedure is to be observed, why have a foreman at all? The foreman is there because he thinks he can profit a little by undertaking to conduct the chit. If the Government think he should not make any profit, they could as well undertake this task of conducting the chits. The foreman takes the trouble to help people and get some profit in the process. That is the way of the world. If the Government were to impose so many restrictions and require the foreman to employ a huge staff, the expenses will go up considerably and the deductions and discounts from the subscriptions will be much greater.

4-00
p.m.

(Deputy Chairman in the Chair.)

We have to take that also into consideration. I can understand some small discount being paid and deductions made on that account. We cannot go on swelling the expenses. Just as they said in the case of the Pawn Brokers Act, they cannot have so many clerks, accountants, etc. Did they not say so, Mr. Raza Khan? (Sri Mohamed Raza Khan: Surely). Similarly in the chit fund transactions also, we seek to prescribe an elaborate procedure that would entail much establishment charges. Nobody will then come forward to conduct chits. Therefore, from a sympathetic point of view the whole thing should be considered. If we simplify the procedure and say that one application will do, after taking all the steps for the purpose, that will meet the needs of the situation. Prescribing a time-limit of one week or fourteen days, and prescribing penalties for contravention of the limit set, are all cumbersome. These provisions not only have the effect of deterring people from conducting chits, but they will also have the effect of killing the chit fund system altogether, because there are so many officers—Inspectors and others—who came into the picture. Therefore it is that I am pleading for a simplification of the procedure and for making the people not to resort to these officers. These are the things that I want to say on this Bill.

SRI MOHAMED RAZA KHAN: Sir, I feel there is a cause for bringing in this Bill. The need for it arose because of a reference to the High Court and the judgment of the High Court thereon. That is the reason why the Leader of the House has brought forward a legislation of this type.

Sir, we appreciate the principles of the Bill. There is absolutely no difference of opinion on that account. In the second place, if the Leader of the House in charge of the Bill, would not take it amiss, I may say that he is anxious to bring in as many social legislations of this type as possible. During his regime as Minister for the last five years, he has brought

18th February 1961] [Sri Mohamed Raza Khan]

forward many pieces of social legislations, and they are all to his credit. I do not know how many more will he bring before this House within the year that is to follow, during which he will continue here as the Leader of the House or as the Minister for Industries. Next year we do not know what will happen—whether he will go to U.N.O. or the Centre. This is beside the point.

Sir, I am in entire agreement with all that Mr. Balasubramanya Ayyar said. The necessity for this Bill may be there. The idea may be good. But we must see the practical side of things. If I look at the practical side of it, I am afraid that this legislation may not serve the purpose for which it is brought forward. Clause 1 (3) says—

“ It shall come into force on such date as the Government may, by notification, appoint, and different dates may be appointed for different areas and for different provisions of this Act ”. “ Different areas ” and “ different dates ” are mentioned in this clause, because the Hon. Minister is well aware of the difficulties which will arise in various places. Therefore he wants to be on safe ground. When I say that the Hon. Minister is anxious to bring in as many social legislations as possible to his credit, no doubt I am reminded of what happened to the previous measures. I am one of those who believe strongly that it is very easy to enact laws but invariably difficult to give proper effect to them. Take the Bill that was passed in this very House about the beedi industry in the City of Madras. The idea was all right. The principle of the Bill was all right. Practically nobody could object to it. But once the Bill became law, we found so many difficulties. It may be that certain provisions are not practicable. Certain difficulties arose or people in charge of the manufacture of beedis were not prepared to co-operate with the Government. Therefore, I am telling the Leader of the House that a Bill might be brought forward with the best of intentions, but in actual working it may be found to be impractical. That is why the Government have taken power under clause 1 (3) to bring this legislation into force in different places on different dates. I leave the matter at this.

Just now reference was made to the Money Lenders Act. The Money Lenders Bill was brought forward somewhere in 1956. After going through the Joint Select Committee, which devoted considerable time and attention, it was passed in the other House and also in this House. But what is the effect? Could anybody honestly say that in the City of Madras this high rate of interest of 12 per cent per month or two annas per rupee per month had been stopped? Are there not people carrying on business to the extent of lakhs of rupees charging interest at 10 or 12 per cent per month? The interest works at the rate of two to four annas per rupee per month. The average is ten to twelve per cent per month. The Government passed that Bill, but the people knew

[Sri Mohamed Raza Khan] [18th February 1961]

how to contravene the provisions therein, and how to make themselves safe. Can the Government say that the Act, passed after so much discussion, is being worked properly and that the high rate of interest or usurious rates of interest have stopped, particularly in the City of Madras? Therefore, I am afraid that this Bill, though very good on principle, might meet with the same fate, which I do not wish.

I do concede that as per the report of the Joint Select Committee and also as per the statement of the Hon. the Leader of the House in moving the motion for the consideration of this Bill, certain changes of a big order were made. Chits are classified under two or three heads. Let us try to understand where we stand. One kind of chit is that run by big firms and companies like Balussery, whose advertisements we see in the press. It is quite possible that this Bill is applicable to them. They may have the necessary resources. They may have the necessary finances or they may have as many subscribers as possible, and they may run chits more as a business proposition and earn money. Surely it will be within their power to deposit fifty per cent of the chit amount with the foreman or to pay five per cent to the Government, and otherwise strictly carry out the provisions of this Bill. There is another class of chits. People coming under this class conduct chits as a business proposition. I concede that the Government are anxious to see that people do not fall a victim to the chits run by unscrupulous persons. Unscrupulous persons make a show of running the chit for two or three months, and then the chit fund collapses. Two or three men who had the chits are happy and the rest of the subscribers become unhappy. Sir, I have not subscribed to any chit so far. But I know that in every village and in every industrial concern hundreds of chits are being organised day in day out, which is a fact known to the Government, purely as a business proposition. Because, the person who organises the chit—he or she—I am told it is now conducted mostly by women in villages—appropriates the first chit. This is one advantage. Then he charges ten per cent on the bid amount, which pays his expenses. Therefore chits of above Rs. 100 are a common feature in the City of Madras, in every street, in every house, and in every locality, and more so in industrial concerns. I do not know whether the Leader of the House had any occasion to visit any of the industries on the day when salaries are disbursed to the workers. On that day we see large groups engaged in the chit fund transactions. How are the Government going to stop these? According to the report of the Joint Select Committee, any chit, which is under Rs. 100, is exempted. So far so good. Suppose there are hundreds of chits below Rs. 100, how will the Government stop them? Then, Sir, clause 56 deals with penalties. The Government expect the organisations to have records and show them to the officers. But, they will run the chits without any records. They know the persons who contribute every month, and they will carry on their transactions. They know who have taken the chits and who have to pay. On what basis will the Government prosecute them? My whole submission, Mr. Deputy

18th February 1961] [Sri Mohamed Raza Khan]

Chairman, is this. If people do not follow the various provisions in this Bill, do not register the by-laws, and still carry on chits of over Rs. 100, how will the Government control them? These people do not keep records. A chit of a thousand or two thousand rupees is carried on generally by a group of ten or twelve people. How will the Government control them? The chit amount may be a thousand. All the subscribers are allowed to bid. Whoever discounts it by the largest amount, gets the chit. That is all right. Your idea is only to prevent that. All that I wish to point out is that there is another type of chits wherein some people join together and auction takes place. Of course, in the other case there is no auction. Only a ballot is drawn and whoever wins gets the chit. I would like the Hon. Leader of the House to clarify what he proposes to do in the case of auction.

4-10
p.m.

Another aspect to which I wish to refer is this. A person on account of sheer necessity knocks down a chit for a small amount. There is also the case of a person who thinks : " This is February and let me take the chit, whatever be the discount; I am not going to pay anything next month, i.e., March and thereafter ". And so a chit for Rs. 1,000 goes for Rs. 500. Of course, there are chit funds where there is a limit fixed on the maximum bid amount. For example, if the chit amount is Rs. 1,000 no one can bid more than Rs. 250. Some such provision should be found in the Bill. I shall speak in greater detail about all this when amendments are moved and discussed.

Sir, I may say this in conclusion. The idea behind this legislation may be all right. It is a good social legislation. But in actual working, I have my own doubt whether it will do any good to anyone. Therefore, while I support the Bill, I am afraid some of the provisions may not be workable. There is the penalty clause, clause 56. It says that, if a person violates the provisions of the Act either deliberately or through ignorance, he has to pay a fine or undergo imprisonment up to one year. Of course, the Hon. Leader of the House will say that the alternative is there, viz., fine, and that the Magistrate will invariably fine the man and not send him to jail. Whatever it is, the penalty provided for is rather too severe.

* THE HON. SRI R. VENKATARAMAN : Mr. Deputy Chairman, some basic questions have been raised in the course of the debate, viz., whether it is necessary to have a Bill of this kind now so on. Nearly ten or twelve years ago, the High Court drew the attention of the Government to the existence of a number of malpractices in chit funds and said that it was for the Government to take steps to see that they were properly regulated. Being a new field, it took nearly ten years for the Government to frame a Bill of this kind. Because of the prevalence of a number of malpractices in the way in which the chits are conducted, it has become necessary to regulate these transactions. In a democracy, we hear only people who have

[Sri R. Venkataraman] [18th February 1961]

the power to shout. The chit conductors or foremen have the power to shout now. But the poor subscriber who is spread all over the area and who takes the loss as divine dispensation is not heard at all. I have known cases, both as a lawyer in the Small Causes Court in Madras when I first started practice and also subsequently, in which the subscribers have had to suffer at the hands of any number of unscrupulous chit conductors. I have also known cases *vice versa* in which many chit conductors have had to suffer at the hands of unscrupulous subscribers who have, without giving any security, walked away with the chit money and made the chit fund come to ruin. This Bill is intended to protect both, the subscriber from the unscrupulous or inefficient foreman and the foreman from the unscrupulous subscriber who walks away with the prize amount. Therefore, it is necessary to have a Bill of this kind. There is also another reason which I wish to submit. As long as a man carries on business with his own money, I believe the State has no authority to intervene. But the moment the man takes others' money and does business, I think it is the State's business to see that the interests of the people concerned are safeguarded. For instance, in banks the bulk of the business is transacted with others' money. So also in limited companies business is done with the shareholders' money. Similarly, in chit funds also the business is carried on with the subscribers' money. Therefore, it is absolutely necessary to have a law of this kind. I am quite sure that when you look at this Bill from this point of view, you will find that a Bill of this kind is not only justified but even necessary. We have taken care to see that the Bill does not immediately weigh very hard on the people who carry on the chit transactions. We have said that small chits of less than Rs. 100 need not be registered. They are, therefore, outside the purview of this legislation. We have already said that notwithstanding the amount of the chit, if there is no deduction and the entire chit amount is taken by the subscriber, it is not a chit. There are a number of transactions of a commercial character in which businessmen join together and there is no commission taken by any one and no auction either. Money is given according to the needs of the businessmen or by drawing lots. We have said these cases will not come within the purview of the Act. I wish to draw the attention of hon. Members to the illustration given under sub-clause (b) of the Definition clause. Sir, this Act is already in existence in the neighbouring State of Kerala and also in our own district of Kanyakumari. The provisions of the Kerala Act are far more stringent than the provisions of this Bill. The Kerala Act requires that the security should be equal to the chit amount in cash or twice the chit amount in the case of property furnished as security. The justification which we feel for bringing in all these regulations is that once we concede that some regulation is necessary, that regulation should be so adequate as to cover all cases. If we agree that regulation is necessary then the law has to be meticulously careful to see that every kind of transaction is covered. Otherwise, if we make a cursory provision and do not provide for all contingencies, then the scope

18th February 1961] [Sri R. Venkataraman]

for evasion will be very great. I can understand an honest difference of opinion. If it is said that we need not have a law like this and that chit transactions can go on as they have been going on, it is understandable. But once it is conceded that an Act is necessary to protect the subscribers and the foreman, then the law has got to be adequate to cover all the existing cases. That is why we have said that before a person asks somebody to subscribe to the chit fund, he must first register the by-laws. Even today no chit is conducted without the necessary by-laws. The hon. Member Sri Balasubramanya Ayyar has said that there are meticulous rules and regulations which seem to fetter the hands and feet of the foreman. As I said even today every foreman has a by-law and he has to have it. Without it he cannot conduct a chit. All that we now say is, before he asks some people to join the chit fund, he should register the by-laws, so that he cannot make unilateral changes without the other side knowing the changes. Therefore, we say, 'First register the by-laws'. Then, after he has furnished the security and complied with the provisions of the law, he must get a certificate of commencement and then proceed to transact the business. The foreman should not draw or conduct a chit business before getting a certificate of commencement which in fact is notice to the subscribers that all the formalities of the law have been complied with. Otherwise, subscribers who may be distributed throughout the State may not know whether the foreman has complied with the law or not. So, it is necessary to have all these regulations. I do not think that they are so very heavy as was sought to be made out. In actual working they will all be found to be simple because the sub-registrar may probably be the Registrar of chits in the taluk or in the area of registration. Then the Director of Chit Funds will be one of the officers who controls and manages all the affairs connected with the Chit Funds at the State level. Then we have also provided an alternative to the foreman to have his own auditor under the Company Law. So we have taken into account all these difficulties in the working of the Bill and provided for them already.

Then, Sir, my hon. Friend Sri Mohamed Raza Khan referred to some other legislation which has not been implemented. Even in that enactment, it was provided that it will be implemented only in stages. We said that it might be introduced in certain areas in the first instance and then extended to the other areas and that different dates might be given for the coming into force of the Act in different parts of the State. Actually for instance the Act to regulate conditions in the Beedi industry had done a lot of good to the beedi workers. It has brought them higher wages. It has brought them under registration. The Act is not applied *in toto*. It is being enforced by stages, step by step, and the first step of registration is going on. My hon. friend has only to wait for some months, or may be about a year, when the other clauses of the legislation will be put into force. If he wants to bring all the clauses into force at the same time, . . .

[18th February 1961]

SRI MOHAMED RAZA KHAN : Even though I do not want to take credit for it, I should say the particular clause to enforce the provisions of the Bill in stages was introduced in the legislation on the suggestion made by us.

THE HON. SRI R. VENKATARAMAN : We want to enforce it step by step. That is the idea of the Government and that is what I stated in the Select Committee also. Therefore it is wrong to say that we enact a legislation but do not enforce it. That was the impression created in the House when the hon. Member Sri Raza Khan spoke. I say it is not so. The very intention of the legislations of this kind is to bring them into force slowly and progressively. And that is being done in the case of the legislation regarding the Beedi industry. Registration has now started and it will take some time before we introduce the other provisions with regard to industrial premises. Without registration we cannot ask everybody to have industrial premises. If we did that, there will be confusion. We do not know who is the person who has got the register and who has got to put up the premises and so on.

In regard to this legislation, we have already an Act in operation in the Kanyakumari district. Probably this legislation will come into force there, and in the neighbouring district of Tirunelveli, for instance, first. The people there are familiar with this type of legislation. They will come under the operation of the Act immediately. And then we will go on extending the legislation to various other places. So, far from being a weakness, I say this is a strength to the very legislation.

Then, Sir, the hon. Member Sri Seshachariar raised a number of points.

SRI MOHAMED RAZA KHAN : When it is convenient and helpful the Hon. Minister refers to the legislation regarding the Beedi industry and contends that enforcement by stages is a strength rather than weakness. But may I not refer in this connection to the Money Lenders Act? Can anybody say that that legislation is being enforced properly and that the money-lenders are not charging exorbitant rates of interest now? What have the Government done to control these money-lenders and the exorbitant interest charged by them?

THE HON. SRI R. VENKATARAMAN : Sir, I have a habit of passing over things with which I am not familiar. (Laughter).

SRI MOHAMED RAZA KHAN : I do not wish to stress my point further, Sir.

THE HON. SRI R. VENKATARAMAN : Sir, certain points were raised by the hon. Member Sri Seshachariar. He asked 'Why is there not a provision for notice to the defaulters?'. The way in which the chit now operates is as follows. Persons are asked to pay their subscriptions every month before a particular date. If they do

18th February 1961] [Sri R. Venkataraman]

not pay, then the foreman removes the subscriber from the chit automatically. He gets a substitute also. Now we have said that it is open to the foreman to remove the subscriber from the list and if he does so, then he must give notice. The fact that the subscriber has committed default enables the foreman to take action. If the subscriber thinks that it is wrong, that his removal from the list is wrong or erroneous, then he can go on appeal. No foreman will remove the name of a subscriber who has paid his subscription. The only ground on which the subscriber can be removed from the list is that he has not paid his subscription.

SRI M. SESHACHARIAR : Then, where is the need for an appeal against removal?

THE HON. SRI R. VENKATARAMAN : If the removal is for default, it is all right. But in some cases the foreman might have dodged to receive the money sent by money order in order to eliminate the subscriber. Therefore we have provided against possible misuse or abuse by the foreman and therefore we have said in rare cases he may go on appeal. Only in such cases where the subscriber has complied with the rules and still finds he has been erroneously and maliciously removed from the list, he will go on appeal. Otherwise he cannot go on appeal. If he has not paid his subscription, on what ground can he go on appeal? Therefore this is the correct thing to do. If every time the foreman has to give notice before he removes the name of the subscriber from the list, then it will be difficult for the foreman to conduct the chit. We have not made any change in the existing practice but we have provided an alternative and an additional remedy by way of appeal to the Registrar so that if there is any malpractice on the part of the foreman, it can be rectified.

Another question with regard to the promissory note was raised. We have provided in clause 25, 'that if any such suit is upon a promissory note, no decree shall be passed under this sub-section unless such promissory note expressly state that the amount due under the promissory note is towards payment of subscriptions to the chit'. This is also what I explained in the Select Committee. In my own experience I have known people who have executed promissory notes either as security for future subscriptions or for payment of instalments with the usual phraseology 'for value received in cash'. If that phraseology is adopted, the court will give a decree immediately saying that it is an ordinary suit on an ordinary promissory note. In order to protect the interests of the subscribers, the legislation has provided that in all these cases where a foreman takes a promissory note for the future subscriptions, it must specifically mention that it is for future subscriptions. Now a question may be asked: "Suppose the foreman still wrongly takes a promissory note and adopts the usual phraseology 'value received in cash'." In that case, the subscriber can always prove to the court that this was in respect of a

[Sri R. Venkataraman] [18th February 1961]

chit fund, and that can be proved by a number of circumstances, namely, (1) the fact that he is the foreman, (2) auction was held, (3) the date on which the promissory note was executed is contemporaneous with the drawing of the chit, and (4) the Minutes Books of the chit fund will show who was the prize winner and the amount drawn. He will be hemmed in by different kinds of evidence which are provided for under this Bill. Therefore we feel that there will be no difficulty and there will be no conflict with the Evidence Act. Whenever a person pleads that it is not for consideration, he can always plead so even in the case of an ordinary promissory note. The burden of proof is on the subscriber as is also the case in other matters.

Then, Sir, it was asked 'Why compounding of offences has been allowed?'

SRI T. P. SRINIVASAVARADAN : Mr. Seshachariar said that each payment of monthly instalment should be noted on the back of the promissory note. Instead of issuing receipts, on the back of the promissory note itself, the payments should be endorsed.

THE HON. SRI R. VENKATARAMAN : It may be done either way. It can be done both ways. For instance, a subscriber can insist that all payments should be endorsed on the promissory note itself, and he is entitled to get this done under the Negotiable Instruments Act. In any event, he is bound to get a receipt, and that receipt will be evidence of payment of the future subscriptions. Even this legislation, which is comparatively simple has been complained of by Mr. Balasubramanya Ayyar as being cumbersome. If we go on providing that it shall be obligatory on the part of the foreman to endorse every payment on the promissory note, there will be no limit to the regulations that will have to be made. It is up to the subscriber to ask for the endorsement on the back of the promissory note. In any event the law has provided for receipt for every payment, and that receipt will be valid in any future proceedings. Absolute protection is given because the promissory note will show that it is in respect of a chit fund and the receipt also is in respect of a chit. Therefore there will be no conflict of evidence and difficulty of proof.

Then, Sir, I come to the compounding of offences. If we look at the clause, we will see that there two types of offences. One type of offence is the carrying on of the business without furnishing security or getting a certificate of commencement and so on. Then there is the other type of offence in which there may be procedural defaults like not filing a return and so on. We have given discretion that in this latter category of offences, the authority may compound the offences. The authority will not compound a major criminal offence. It is wrong to imagine that the authority would do it. But unless we provide for this sort of offences, every small offence like the failure to furnish returns, failure to file statements,

18th February 1961] [Sri R Venkataraman]

etc., will have to be punished. It is not necessary to punish these offences. Therefore compounding of offences has been permitted in these cases.

I hope, Sir, that with this explanation, the House will accept the motion for consideration of this Bill.

DEPUTY CHAIRMAN : The question is—

' That the Madras Chit Funds Bill, 1961 (L.A. Bill No. 5 of 1960), as passed by the Legislative Assembly, be taken into consideration '.

The motion was put and carried.

DEPUTY CHAIRMAN : The House will now adjourn and meet again at 3 p.m. on Thursday, the 23rd February 1961.

The House then adjourned.

VI.—PAPERS LAID ON THE TABLE OF THE HOUSE.

* 187. *Guide Book on Panchayat Development in Madras State.*

188. *Administration Report on the Madras State Electricity Board for the year 1958-59.*

† 189. *Tenth Report of the Committee on Subordinate Legislation of the Madras Legislative Assembly.*

190. *Notification issued with G.O. Ms. No. 3341, Home, dated 22nd October 1960, regarding amendment to the Madras Motor Vehicles Rules, 1940.*

† 191. *Notification issued with G.O. Ms. No. 5710, Industries, Labour and Co-operation (Labour), dated 10th December 1960, exempting all the beedi industrial premises in the State and the employees employed therein from the provisions of sections 18, 21, 26, 27 and 31 of the Madras Beedi Industrial Premises (Regulation of Conditions of Work) Act, 1958 (Madras Act XXII of 1958).*

192. *Report of the Committee of Parliament on Official Language (Tamil Version).*

† 193 and 194. *Notifications issued by the Regional Inspectors of Municipal Councils and Local Boards, Ramanathapuram and North Arcot districts, relating to certain panchayats in the Ramanathapuram and North Arcot districts respectively.*

† 195. *Notification issued with G.O. Ms. No. 3741, Industries, Labour and Co-operation (Labour), dated 29th July 1960, regarding amendments to the Madras Factories Rules, 1950.*